

AMENDED IN ASSEMBLY JUNE 17, 2015

SENATE BILL

No. 602

Introduced by Senator Monning

February 27, 2015

An act to amend Section 10089.38 of the Insurance Code, and to amend Sections ~~5899, 8503, 10003, 10100.2, and 10104~~ *5899 and 8503* of the Streets and Highways Code, relating to seismic safety, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 602, as amended, Monning. Seismic safety: California Earthquake Authority.

Existing law establishes the California Earthquake Authority, which is authorized to transact insurance in the state as necessary to sell policies of basic residential earthquake insurance, as provided. Existing law provides that a public purpose will be served by a voluntary contractual assessment program that provides the legislative body of a public agency with the authority to finance the installation of seismic strengthening improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property. For purposes of financing the installation of seismic strengthening improvements, "public agency" means a city, county, or city and county.

This bill would include the California Earthquake Authority as part of the definition of "public agency" for this purpose.

The Improvement Bond Act of 1915, provides authority for the legislative body of any city to determine that bonds may be issued to pay for specified works of improvement. ~~The Municipal Improvement Act of 1913 authorizes the legislative body of a municipality to pay or make funds available to enable the owners of lots or parcels of real~~

~~property to pay for work deemed necessary to bring real property or buildings into compliance with seismic safety standards or regulations, as provided.~~

This bill would include the California Earthquake Authority as part of the definition of “city” or “municipality” for purposes of ~~these acts.~~ *this act.*

Existing law authorizes the Earthquake Loss Mitigation Fund, a continuously appropriated fund, to be applied to supply grants and loans or loan guarantees to dwelling owners who wish to retrofit their homes to protect against earthquake damage.

This bill would also authorize the money in the fund to be used to fund seismic strengthening improvements permanently fixed to residential, commercial, industrial, agricultural, or other real property, and to acquire debt obligations issued to fund these improvements, thereby making an appropriation. *The bill would also (1) revise or waive certain notice and reporting requirements generally applicable to contractual assessments for contractual assessments that finance seismic strengthening improvements, (2) absent specified conditions, presume statewide scope of any California Earthquake Authority programs of contractual assessments for seismic strengthening improvements, and (3) provide for payment of assessments pursuant to the contractual payment schedule for any California Earthquake Authority program, notwithstanding any bonds secured by those assessments.*

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10089.38 of the Insurance Code is
2 amended to read:
3 10089.38. (a) Upon the development and implementation of
4 an economical system satisfactory to the board and the
5 commissioner to prevent misapplication of mitigation funds, *money*
6 *in the Earthquake Loss Mitigation Fund may be applied to supply*
7 ~~grants and loans or loan guarantees to dwelling owners who wish~~
8 ~~to retrofit their homes to protect against earthquake damage.~~ *to all*
9 *of the following:*
10 (1) *To supply grants and loans or loan guarantees to dwelling*
11 *owners who wish to retrofit their homes to protect against*
12 *earthquake damage.*

1 (2) *To fund seismic strengthening improvements authorized by*
2 *Section 5899 of the Streets and Highways Code.*

3 (3) *To acquire debt obligations issued to fund seismic*
4 *strengthening improvements funded pursuant to paragraph (2).*

5 ~~(b) Money in the Earthquake Loss Mitigation Fund may also~~
6 ~~be used for either of the following purposes:~~

7 ~~(1) To fund seismic strengthening improvements authorized~~
8 ~~pursuant to Section 5899 of the Streets and Highways Code.~~

9 ~~(2) To acquire debt obligations issued to fund improvements~~
10 ~~described in paragraph (1).~~

11 SEC. 2. Section 5899 of the Streets and Highways Code is
12 amended to read:

13 5899. (a) The Legislature finds and declares all of the
14 following:

15 (1) It is the intent of the Legislature to address seismic safety
16 needs throughout this state by permitting voluntary individual
17 efforts to improve the seismic safety of homes and buildings. The
18 Legislature further intends that this chapter should be used to
19 finance the installation of seismic strengthening improvements
20 that are permanently fixed to residential, commercial, industrial,
21 agricultural, or other real property, including, but not limited to,
22 the seismic strengthening of cripple walls and sill plate anchorage
23 of light, wood-framed buildings.

24 (2) The upfront cost of making residential, commercial,
25 industrial, agricultural, or other real property more seismically
26 safe prevents many property owners from making those
27 improvements. To make those improvements more affordable and
28 to promote the installation of those strengthening improvements,
29 it is necessary to authorize an alternative procedure for authorizing
30 assessments to finance the cost of seismic strengthening
31 improvements.

32 (3) A public purpose will be served by a voluntary contractual
33 assessment program that provides the legislative body of any public
34 agency with the authority to finance the installation of seismic
35 strengthening improvements that are permanently fixed to
36 residential, commercial, industrial, agricultural, or other real
37 property.

38 (b) For purposes of this section, the following terms shall have
39 the following meanings:

1 (1) For the purpose of financing the installation of seismic
2 strengthening improvements, “public agency” means a city, county,
3 or city and county, or the California Earthquake Authority. The
4 definition of “city” in Section 5005 shall not apply to this
5 paragraph.

6 (2) “Seismic strengthening improvements” means permanent
7 seismic safety improvements fixed to residential, commercial,
8 industrial, agricultural, or other real property.

9 (c) The legislative *or governing* body of a public agency may
10 designate an area, in the manner provided pursuant to Section
11 5898.20, within which authorized public agency officials and
12 property owners may enter into voluntary contractual assessments
13 to finance the installation of seismic strengthening improvements
14 that are permanently fixed to real property pursuant to this chapter.

15 (d) For purposes of establishing a voluntary contractual
16 assessment program relating to seismic strengthening
17 improvements, the legislative body shall make the determinations
18 required pursuant to Section 5898.20 by adopting a resolution
19 indicating its intention to do so. The resolution of intention shall
20 identify the kinds of seismic strengthening improvements that may
21 be financed and shall include all of the information that is required
22 pursuant to subdivision (b) of Section 5898.20, including, but not
23 limited to, directing an appropriate public agency official to prepare
24 a report pursuant to Section 5898.22.

25 (e) For purposes of the report required pursuant to Section
26 5898.22, relating to a voluntary contractual assessment program
27 for seismic strengthening improvements, the designated public
28 agency official shall satisfy the requirements of paragraph (1) of
29 subdivision (c) of Section 5898.22 by identifying the types of
30 seismic strengthening improvements that may be financed through
31 the use of contractual assessments.

32 (f) Notwithstanding any other provision of this chapter, upon
33 the written consent of an authorized public agency official, the
34 proposed arrangements for financing the program pertaining to
35 the installation of seismic strengthening improvements that are
36 permanently fixed to real property may authorize the property
37 owner to purchase directly the related equipment and materials for
38 the installation of seismic strengthening improvements and to
39 contract directly for the installation of seismic strengthening
40 improvements that are permanently fixed to the property owner’s

1 residential, commercial, industrial, agricultural, or other real
2 property.

3 ~~(g) Subdivisions (c) and (d) do not apply to the California~~
4 ~~Earthquake Authority. Notwithstanding any other provision of this~~
5 ~~chapter, and unless otherwise specified in the resolution of~~
6 ~~intention adopted pursuant to subdivision (d) and the report~~
7 ~~required by Section 5898.22, the area within which the California~~
8 ~~Earthquake Authority and property owners may enter into~~
9 ~~voluntary contractual assessments pursuant to this chapter to~~
10 ~~finance the installation of seismic strengthening improvements~~
11 ~~that are permanently fixed to real property shall include the entire~~
12 ~~state. The California Earthquake Authority shall not be required~~
13 ~~to designate, describe, or provide a map of that area in the~~
14 ~~resolution of intention adopted pursuant to subdivision (d), the~~
15 ~~report required by Section 5898.22, or otherwise, unless that area~~
16 ~~covers an area smaller than the entire state.~~

17 (h) Notwithstanding any other provision of this chapter or any
18 other law, with regard to the establishment of a voluntary
19 contractual assessment program pursuant to this chapter to finance
20 the installation of seismic strengthening improvements that are
21 permanently fixed to real property, the California Earthquake
22 Authority shall be required to publish the notice required by
23 subdivision (a) of Section 5898.24 solely in a newspaper of general
24 circulation within the County of Sacramento.

25 (i) Subdivision (b) of Section 5898.24 shall not apply to a
26 voluntary contractual assessment program established pursuant
27 to this chapter solely to finance the installation of seismic
28 strengthening improvements that are permanently fixed to real
29 property.

30 (j) Notwithstanding any other provision of this chapter, the
31 Improvement Bond Act of 1915 (Division 10 (commencing with
32 Section 8500)), or any other law, any voluntary contractual
33 assessment entered into with respect to a program established by
34 the California Earthquake Authority under this chapter shall be
35 made under the payment schedule set forth in the contract
36 providing for that voluntary contractual assessment, whether or
37 not any bonds secured by that voluntary contractual assessment
38 have been issued.

39 SEC. 3. Section 8503 of the Streets and Highways Code is
40 amended to read:

1 8503. “City” includes counties, cities and counties and public
2 corporations, districts and agencies, and the California Earthquake
3 Authority.

4 ~~SEC. 4. Section 10003 of the Streets and Highways Code is~~
5 ~~amended to read:~~

6 ~~10003. “Municipality” and “city” include every city, city and~~
7 ~~county, or county, or other entity, public corporation, or agency~~
8 ~~authorized to operate under this division, including any joint~~
9 ~~powers entity created pursuant to Chapter 5 (commencing with~~
10 ~~Section 6500) of Division 7 of Title 1 of the Government Code~~
11 ~~and any special district organized for the purpose of aiding in the~~
12 ~~development or improvement of navigation or commerce to, or~~
13 ~~within, the district, and the California Earthquake Authority.~~

14 ~~SEC. 5. Section 10100.2 of the Streets and Highways Code is~~
15 ~~amended to read:~~

16 ~~10100.2. (a) (1) When the public interest or convenience~~
17 ~~requires, the legislative body may use the powers of this division~~
18 ~~to pay, or make funds available to enable the owners of lots or~~
19 ~~parcels of real property within the district to pay, for either of the~~
20 ~~following:~~

21 ~~(A) (i) Work deemed necessary to bring real property or~~
22 ~~buildings, including privately owned real property or buildings,~~
23 ~~into compliance with seismic safety standards or regulations. The~~
24 ~~legislative body shall declare that public loans or funds provided~~
25 ~~to owners of private buildings for seismic strengthening of~~
26 ~~unreinforced buildings or other buildings, or real property, pursuant~~
27 ~~to this section constitute a public purpose resulting in a public~~
28 ~~benefit. Only work certified as necessary to comply with seismic~~
29 ~~safety standards or regulations by local building officials may be~~
30 ~~financed. No project involving the dismantling of an existing~~
31 ~~building and its replacement by a new building or the construction~~
32 ~~of a new or substantially new building may be financed pursuant~~
33 ~~to this section, except as otherwise provided in subparagraph (B).~~
34 ~~Work on qualified historical buildings or structures shall be done~~
35 ~~in accordance with the State Historical Building Code (Part 2.7~~
36 ~~(commencing with Section 18950) of Division 13 of the Health~~
37 ~~and Safety Code). Any financing for seismic strengthening of a~~
38 ~~residential structure containing units rented by households specified~~
39 ~~in Section 50079.5 of the Health and Safety Code before~~
40 ~~strengthening shall be subject to a regulatory agreement that will~~

1 ensure that the number of those units in the structure will not be
2 reduced and will remain available at affordable rents pursuant to
3 Section 50053 of the Health and Safety Code as long as any
4 assessments levied pursuant to this section on the parcel on which
5 the structure is located remain unpaid.

6 (ii) A lot, parcel, or building shall not be included in the district
7 without the owner's consent.

8 (B) Within an area that has been designated by the Governor
9 as a disaster area or for which the Governor has proclaimed the
10 existence of a state of emergency because of earthquake damage,
11 work deemed necessary to repair any damage to real property
12 directly or indirectly caused by the occurrence of an earthquake
13 cited in the Governor's designation or proclamation, or by
14 aftershocks associated with that earthquake, including work to
15 reconstruct, repair, shore up, or replace any real property or
16 building damaged or destroyed by the earthquake or by its
17 aftershocks. Work may be financed pursuant to this subparagraph
18 only on real property or buildings identified in a resolution of
19 intention to establish a district adopted within seven years of the
20 date that the Governor designates the area as a disaster area or
21 proclaims a state of emergency in the area.

22 (2) A district created to finance seismic safety work on privately
23 owned buildings, including repair, reconstruction, or replacement
24 of privately owned buildings pursuant to this section, shall consist
25 only of lots or parcels on which the legislative body finds that the
26 buildings to be worked on, repaired, reconstructed, or replaced
27 pursuant to this section, are located or were located before being
28 damaged or destroyed by the earthquake that is the subject of the
29 Governor's designation or proclamation pursuant to subparagraph
30 (B) of paragraph (1), or by the aftershocks of that earthquake.
31 Notwithstanding Division 7 (commencing with Section 5000) or
32 this division, this paragraph shall not apply to any district created
33 by the California Earthquake Authority.

34 (3) The Legislature hereby declares that the use of public funds
35 pursuant to this section for seismic strengthening, repair, or
36 reconstruction of privately owned real property or buildings
37 constitutes a public purpose resulting in a public benefit. The use
38 of funds pursuant to this section shall not be construed to be gifts
39 of public funds in violation of Section 6 of Article XVI of the
40 California Constitution.

1 ~~(4) A loan or expenditure of funds made by a district pursuant~~
2 ~~to this section and secured by a tax assessment or a lien, or both~~
3 ~~that assessment and lien, on private property shall not, when~~
4 ~~combined with existing liens on the property, exceed 80 percent~~
5 ~~of the current appraised value of the property, as determined by~~
6 ~~an independent, certified appraiser, unless existing lienholders~~
7 ~~consent in writing to a higher loan-to-value ratio. Notice of the~~
8 ~~creation of a district or the authorization for the loan or expenditure~~
9 ~~of funds for the purposes set forth in this section shall be given to~~
10 ~~lienholders of record on the property included in the district at~~
11 ~~least 30 days prior to any vote of the governing body authorizing~~
12 ~~the creation of the district or the loan or expenditure of funds that~~
13 ~~could create a lien on the property.~~

14 ~~(b) A district created to finance seismic safety or repair work~~
15 ~~pursuant to this section may include areas of territory that are not~~
16 ~~contiguous.~~

17 ~~(c) At any time after the passage of the resolution provided for~~
18 ~~in subdivision (a) of Section 10312, the legislative body may make~~
19 ~~changes in or modify the improvements or reduce the assessment~~
20 ~~with respect to a particular lot or parcel within an assessment~~
21 ~~district created for the purposes of this section with the written~~
22 ~~consent of the owner of that lot or parcel.~~

23 ~~(d) Any changes made within an assessment district created~~
24 ~~for the purposes of this section shall be made after notice and~~
25 ~~hearing, as provided in this division, except that changes may be~~
26 ~~made under any of the following circumstances:~~

27 ~~(1) At the hearing on the report, changes that do any of the~~
28 ~~following:~~

29 ~~(A) Eliminate a portion of the assessment district without~~
30 ~~increasing the amount of any assessment or substantially affecting~~
31 ~~the distribution of benefits from the improvements.~~

32 ~~(B) Exclude territory that will not be benefited by the remaining~~
33 ~~improvements without increasing the amount of any assessment.~~

34 ~~(C) Modify the improvements or the assessment with respect~~
35 ~~to a particular lot or parcel within the assessment district with the~~
36 ~~written consent of the owner and without increasing the~~
37 ~~assessments on any other real property.~~

38 ~~(2) At any time after the improvements are ordered and during~~
39 ~~the pendency of the proceedings to establish the assessment district.~~

1 ~~(3) At any time after the adoption of the resolution provided for~~
2 ~~in subdivision (a) of Section 10312, to modify the improvements~~
3 ~~or reduce the assessment with respect to a particular lot or parcel~~
4 ~~within the assessment district with the written consent of the owner.~~

5 ~~(e) An action to determine the validity of any assessments,~~
6 ~~bonds, bond anticipation notes, contracts, or improvements for the~~
7 ~~purposes of this section may be brought by the legislative body,~~
8 ~~or by any person designated by the legislative body, pursuant to~~
9 ~~Chapter 9 (commencing with Section 860) of Title 10 of the Code~~
10 ~~of Civil Procedure. For this purpose, an improvement shall be~~
11 ~~deemed to be in existence upon its authorization and an assessment~~
12 ~~upon its confirmation.~~

13 ~~(f) It is the intent of the Legislature that the powers conferred~~
14 ~~by this section shall be in addition and supplemental to, and not~~
15 ~~exclusive of, the powers conferred by any other law.~~

16 ~~SEC. 6. Section 10104 of the Streets and Highways Code is~~
17 ~~amended to read:~~

18 ~~10104. (a) When a proceeding is initiated under this division~~
19 ~~by a legislative body other than that of a city or county, and before~~
20 ~~the resolution of intention is adopted, the proposed resolution,~~
21 ~~together with a plat or map which shall indicate by a boundary~~
22 ~~line the extent of territory included in the proposed district, shall~~
23 ~~be submitted for approval of the legislative body of the city, where~~
24 ~~the land to be assessed lies within the corporate limits of any city,~~
25 ~~or of the county, where the land to be assessed lies within an~~
26 ~~unincorporated territory. When the approval has been secured, the~~
27 ~~resolution of intention may be adopted and the legislative body~~
28 ~~initiating the proceeding may thereafter take each and every step~~
29 ~~required for or suitable for the consummation of the work and the~~
30 ~~levying, collecting and enforcement of the assessments to cover~~
31 ~~the expenses thereof and the issuance and enforcement of bonds~~
32 ~~to represent unpaid assessments.~~

33 ~~(b) Notwithstanding Division 7 (commencing with Section~~
34 ~~5000) or this division, this section shall not apply to any district~~
35 ~~created by the California Earthquake Authority.~~